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24 **UNITED STATES DISTRICT COURT**
25 **CENTRAL DISTRICT OF CALIFORNIA**

26 UNITED STATES,
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28 Plaintiff,
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30 v.
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32 DURK BANKS,
33
34 Defendant.

Case No. 2:24-cr-00621-MWF

DEFENDANT DURK BANKS'
REPLY IN SUPPORT OF HIS
APPLICATION FOR
RECONSIDERATION OF
DETENTION ORDER

23 Defendant Durk Banks, through his attorneys, Drew Findling, Marissa Goldberg,
24 Jonathan M. Brayman, and Christy O'Connor, hereby files this reply in support of his
25 application for reconsideration of the detention order in this matter.
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MEMORANDUM OF POINTS AND AUTHORITIES

I. Introduction

On December 12, 2024, this Court held a detention hearing and ultimately ordered that Mr. Banks be detained based on two factors: danger and flight risk. 18 U.S.C. 3142(g). On the issue of danger, the court relied primarily on facts presented in the First Superseding Indictment. Doc. 124 at 44. The issue of flight risk, this Court admitted, was a “closer call.” *Id.* As the Court is aware, the Probation Department assessed that Mr. Banks was not a flight risk, but did recommend detention based on dangerousness.

Since that hearing, the landscape has shifted. On May 1, 2025 the government filed a Second Superseding Indictment which removed two major allegations from the First Superseding Indictment. First, it removed the allegation that Mr. Banks’ song lyrics somehow glorified the murder of S.R.; and second, it removed the allegation that Mr. Banks directed others to pay or be paid a “bounty” for the murder. Importantly, the government returned to the grand jury and sought this Second Superseding Indictment after, and apparently in response to, Mr. Banks filing his Motion to Dismiss the Indictment (Doc. 135) and his Application for Reconsideration of the Detention Order (Docs. 136-138). In essence, the government effectively conceded Mr. Bank’s central argument in his Application for Reconsideration (Doc. 136): that the government presented false and/or misleading information about Mr. Banks to the grand jury and to this Court concerning critical factual allegations.

In its response and supplemental filing, the government downplays these changes as immaterial and underserving of this Court’s consideration. However, as detailed below, they are both appropriate and of great import in this Court’s review of the statutory factors for release. With the issues of the lyrics and the payout of a “bounty” altogether abandoned, what remains of the indictment is a weak patchwork of unsupported and non-specific allegations against Mr. Banks. This watered-down new indictment, coupled with the robust bond package proposed here, tips the balance in favor of Mr. Banks’ release pending trial.

1 **II. Argument**

2 a. The Weight of the Evidence Has Changed Since the Initial Detention
3 Order.

4 18 USC § 3142(g)(2) requires that the Court look at the weight of the evidence
5 against a person to determine whether there are conditions of release that will
6 reasonably assure the appearance of the person as required and the safety of any other
7 person and the community. With the new indictment in mind, the alleged weight of the
8 evidence against Mr. Banks is significantly weaker.

9 First, the Second Superseding Indictment removed Paragraph 6 of the
10 “Introductory Allegations” in the First Superseding Indictment, which relied on lyrics
11 from a song to allege that Mr. Banks was somehow celebrating or commercially
12 glorifying the death of S.R. This was a hotly contested issue at the detention hearing.
13 With the Second Superseding Indictment, the government has now conceded the issue
14 entirely – despite the fact that it took up a significant portion of the detention hearing.
15 To be clear, the inclusion of the now-removed portion referencing song lyrics was more
16 than “immaterial” fluff in the First Superseding Indictment. The government absolutely
17 intended that section to illustrate direct involvement in the alleged murder-for-hire and
18 more importantly, the knowledge of Mr. Banks of the alleged offense through some
19 sort of musical confession. The government has now been proven wrong and has
20 removed the reference, substantially depreciating the weight of the allegations.

21 Of equal or even greater import, the Second Superseding Indictment removed
22 Paragraph 9 of the original indictment, which alleged that Mr. Banks directed others to
23 pay a “bounty” for the killing of S.R. This material change also significantly impacts the
24 Court’s calculation, as this Court in the initial detention hearing specifically cited the
25 government’s allegation that Banks exercised control of others and that other people
26 acted at his direction to find dangerousness. Doc. 124 at 43-44 (“...[A]lthough the
27 allegations are not that the defendant personally pulled the trigger, the allegations are that
28 the defendant exercised a significant amount of control over other individuals and that

1 those individuals were acting at his direction.”). Now, with the payment of the “bounty”
2 allegation withdrawn from the indictment, the foundation for this Court’s conclusions
3 has been materially undercut. Outside of the allegations in the new indictment, the
4 government can only point to ambiguous and insubstantial pieces of “evidence” – i.e.,
5 one singular text message subject to a variety of interpretations alleged to have been sent
6 by Mr. Banks. No other specific or direct evidence has been provided to date – including
7 any evidence showing Mr. Banks’ alleged “control” of others the government continually
8 refers to in the previous indictments and in their arguments before this Court. The bulk
9 of the government’s contentions include its own proffered generalizations that seemingly
10 come from an informant whose veracity and credibility has never been subject to
11 challenge, to support the false notion that Mr. Banks is or ever has been a danger.

12 While it is true that the Second Superseding Indictment also added an additional
13 charge of stalking, the addition is immaterial to the question of detention as the allegation
14 already existed in the First Superseding Indictment. See Doc. 27 at 3. No new allegations
15 are contained in the stalking charge of the Second Superseding Indictment.

16 b. Reasonable Conditions Exist to Secure the Safety of the Community and to
17 Assuage any Concern Regarding Risk of Flight.

18 Mr. Banks has filed a robust bond package which outlines a variety of conditions
19 to secure the safety of the community and ensure that Mr. Banks complies with all
20 conditions imposed by this Court. One of the conditions that Mr. Banks proposed was
21 the use of a 24/7 licensed security company. This Court expressed concern that the “the
22 presence of a security company providing security for the defendant is not going to
23 address the significant concerns with regard to the safety of the community here . . .
24 [because] [t]he security company would be acting at the direction and under the guidance
25 of the defendant.” Doc. 124 at 44. The government argued that the security would be
26 present for the physical protection of Mr. Banks. Doc. 124 at 40.

27 To clarify, the purpose of the security company, detailed in the bond package,
28 would be to enforce the terms and conditions of *the bond set by this Court*. Specifically,

1 if there is an order regarding curfew or home confinement, the security company would
2 serve as a prophylactic measure to ensure Mr. Banks' compliance with those conditions.
3 Put another way, the security company would be beholden to this Court – not Mr. Banks
4 (though he would be the one footing the bill). Both Mr. Banks and the security company
5 are well aware of this agreement and will provide a specific plan regarding the line of
6 communication to the Court and/or Pretrial Services if the Court allows release. With
7 this check in place, Mr. Banks poses no danger to the community or of fleeing the
8 jurisdiction, as noncompliance would trigger the immediate alert of the Court.

9 **III. Conclusion**

10 WHEREFORE, based on the change of circumstances created by the Second
11 Superseding Indictment, as well as the significant bond package that includes stringent
12 conditions that would properly rebut the presumption that he is a danger or a flight risk,
13 Mr. Banks respectfully requests this Court release him on conditions pending trial.